

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION

In the matter of the Petition for Writ of Habeas Corpus for Hillary J. Poole

HILLARY J. POOLE, <i>ET AL.</i> ,	)	
Petitioners,	)	
	)	
v.	)	Case No: 09-3267-CV-S-RED
	)	
PETE GEREN, <i>ET AL.</i> ,	)	
Respondents.	)	

**MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS**

Come now Petitioners by counsel and move this Court for entry of an order dismissing the petition for writ of habeas corpus on the basis that the petition is now moot. In support Petitioners state:

1. On July 24, 2009, Petitioners filed a petition for writ of habeas corpus with respect to Hillary J. Poole. (Doc. # 1). Petitioners sought Hillary Poole's release from the custody of the United States Army on the basis that she was enlisted without the written consent of her father while a minor in contravention of 10 U.S.C. §105 and relevant Army regulations.
2. By agreement of the parties, Hillary Poole has remained within the United States and on leave from military duty pending resolution of this matter.
3. Subsequent to Petitioners' counsel providing the report of a handwriting expert that opined that the purported signature of Petitioner Thomas Poole was not authentic, Respondents commenced the process to administratively void the enlistment of Hillary Poole on the basis of her minority at the time of enlistment.
4. The administrative process was completed on August 18, 2009, and on that date Hillary J. Poole was discharged from the Army. The assigned separation code is JFB, which indicates a discharge based on minority.

5. Hillary J. Poole is no longer in the custody of Respondents and has been afforded the relief sought by the Petition for Writ of Habeas Corpus. Accordingly, the Petition is moot. *See, e.g., Qassim v. Bush*, 466 F.3d 1073, 1076 (D.C. Cir. 2006) (release of petitioner mooted habeas claim challenging detention at Guantanamo Bay naval facility); *Lewis v. Stempson*, 737 F. Supp. 667, 669 (D.D.C. 1990) (habeas petition dismissed in part as moot where petitioner's requested change in cellblock assignment had been granted).

6. Counsel for Respondents has been contacted and has no objection to this motion. WHEREFORE Petitioners move this Court for entry of an order dismissing the Petition for Writ of Habeas Corpus as moot and allowing such other relief as is proper under the circumstances.

Respectfully submitted,

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ATTORNEYS FOR PETITIONERS

*Certificate of Service*

I hereby certify that on August 19, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to: Cynthia J. Hyde, 901 St. Louis Street, Suite 500, Springfield, Missouri 65806-2511.

/s/ Anthony E. Rothert